



Rivers Alliance of Connecticut

TO: The Chairmen of the CGA Public Health Committee, Elizabeth Ritter and Terry Gerratana
And Members of the Committee

RE: Public Hearing, March 7, 2012:

H.B. No. 5334 AAC The Sale Or Abandonment Of Water Supply Sources And Associated Land..

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Testimony of Rivers Alliance of Connecticut

Rivers Alliance of Connecticut is the statewide, non-profit coalition of river organizations, individuals, and businesses formed to protect and enhance Connecticut's waters by promoting sound water policies, uniting and strengthening the state's many river groups, and educating the public about the importance of water stewardship. Our 450 members include almost all of the state's river and watershed conservation groups, representing many thousand Connecticut residents.

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Thank you for the opportunity to comment on HB 5334. From conversations with staff at the Department of Public Health (DPH), I realize that the bill is intended to streamline certain permitting processes while maintaining or strengthening standards for health and the environment. We fully agree with these purposes. However, I see many potentially confusing passages and other problems related to achieving DPH's goal.

I am grateful to DPH for willingness to discuss my concerns. The matter is of considerable public interest because it relates to the ability of water utilities to sell, off or otherwise make use of source-water lands (Class I and II lands).

I'll just give two examples of confusions. First, the definitions need further checking against other statutory and regulatory language. I realize that the definitions are for this bill only, but inconsistent definitions can cause trouble down the road. For example, the definition of "safe yield" here is perfectly correct. But the definition of "safe yield" elsewhere in statute and regulation subtracts required releases from the safe yield number. Let's say that a reservoir has a safe yield of 1 million gallons per day (by the definition in 5334). The utility can say, "I have lots of water, I can abandon one of my lesser sources and develop that land. " But when the utility is calculating safe yield in another context, it must subtract any required releases, say 400,000 gpd. Then the utility can say, "I only have a safe yield of 600,000 gpd here, which is dangerously little, and therefore I need some relief on these required streamflow releases." I actually prefer the definition in 5334 (more scientific), but the main point is for the state to pick one or the other.

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organization under
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The second area of confusion arises from combining the findings necessary for abandonment of a source with the findings necessary for a sale. While many steps are the same or similar, some important steps are distinct and different. The bill navigates this well in some cases, where it indicates separate tracks for abandonment or sale. (See 3 (d) (1).) But sometimes the distinction is blurred. For example,

e) (1) The commissioner shall not approve an application for a permit to abandon, sell or otherwise alienate a water supply source or potential water supply source unless (A) the land connected with such water supply source or potential water supply source will be sold, leased, assigned or otherwise disposed of in accordance with section 25-32f and, if sold, leased, assigned or otherwise disposed of, will be acquired by the same water company that purchases the water supply source or potential water supply source, except where the applicant is granted an exemption as provided in this subsection; and (B) in the case of a sale, any protective easement or other land protection connected with the water supply source will be effective after the sale.

This paragraph includes an application to abandon but then addresses almost exclusively sale, lease, or the like. Its requirements would not fit well with a request to abandon, say, a small poor-quality reservoir. The utility might simply not want to pay for upkeep or not want to have this source counted when the state calculates streamflow requirements. The company might also have in mind eventually putting housing around the reservoir or selling some or all of the land to a developer. But, in any case, the source is not going to another utility; there is no "same company that purchases the water supply source."

More important, I believe a central required finding for abandonment is blurred or weakened in the new language. That is the required finding that the source proposed to be abandoned have no foreseeable use to the state (not just a utility's customers, or potential customers nearby).

Finally, I urge you to inquire as to what if any of the content that would be part of these findings would be publicly available. In my experience, which includes three FOI docket in the past 12 months, the public cannot be told where reservoirs are located, what their names are, or what their safe yields are. The public can only see information on potential future water sources that *each* utility agrees to release (DPH does not make this decision). The public is no longer allowed to see a "water supply plan or water system plan," documents that are essential to the implementation of this bill. Our position is that sale or abandonment of a drinking water source should be approved only on the basis of publicly available information.

Rivers Alliance would be happy to work on this proposed legislation if that would be useful to the committee or DPH.

Margaret Miner, Executive Director

